

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

10-CR-219-S

TONAWANDA COKE CORPORATION and
MARK L. KAMHOLZ

Defendants.

PROTECTIVE ORDER

Pursuant to Federal Rules of Evidence 501 and 502(d), and Federal Rule of Criminal Procedure 16(d), the government has filed a motion requesting that this Court issue a Protective Order permitting the New York State Department of Environmental Conservation ("NYS-DEC") to disclose to the government certain files and documents that may be material to the above-captioned case, over which NYS-DEC has made a claim of privilege, including but not limited to the attorney-client, attorney work product, and deliberative process privileges, for the purpose of permitting government prosecutors to review said files and documents for potential exculpatory and impeachment materials, pursuant to Brady v. Maryland, 373 U.S. 83 (1963), and Giglio v. United States, 405 U.S. 150 (1972), so that such disclosure and review does not act as a waiver of NYS-DEC's privilege claims. The defendants do not oppose this motion. Accordingly, it is hereby

ORDERED, that New York State Department of Environmental Conservation will disclose to the government all of the documents listed on Exhibit A and Exhibit B to the government's motion, over which the NYS-DEC has claimed privilege; and it is further

ORDERED, that such disclosure for review by government prosecutors does not act as a waiver of NYS-DEC's privilege claims over the documents listed on Exhibit A and Exhibit B to the government's motion.

DATED: Buffalo, New York, April 1, 2011

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
UNITED STATES MAGISTRATE JUDGE